APPENDIX

STATUTES

U. S. Internal Revenue Code of 1939 adopted by Act of February 10, 1939, Chap. 2, 53 Stat. 1-504 applicable to this proceeding:

Section 23. Deduction from Gross Income.

In computing net income there shall be allowed as deductions:

* * *

(a) Interest.—All interest paid or accrued within the taxable year on indebtedness except on indebtedness incurred or continued to purchase or carry obligations (other than obligations of the United States issued after Sept. 24, 1917, and originally subscribed for by the taxpayer) the interest upon which is wholly exempt from the taxes imposed by this chapter.

REGULATIONS

Section 29.23(b)-1. (Original, Oct. 26, 1943)
Interest.

Interest paid or accrued within the year on indebtedness may be deducted from gross income, except that interest on indebtedness incurred or continued to purchase or carry obligations, such as municipal bonds or (in case of a taxpayer not an original subscriber) obligations of the United States issued after Sept. 24, 1917, the interest upon which is wholly exempt from tax is not deductible. * * *

DECISION

U. S. Court of Appeals for the Second Circuit, issued 3/28/1957

U. S. COURT OF APPEALS
for the Second Circuit
No. 186 — October Term 1956
Argued Mar. 5, 6, 1957 Decided Mar. 28, 1956
Docket No. 24359

241 CORPORATION,

Petitioner

against

COMMISSIONER OF INTERNAL REVENUE,

Respondent.

Before:

Medina and Waterman, Circuit Judges and Galston, District Judge

Petition to review a decision of the Tax Court, Stephen E. Rice, Judge.

The Tax Court disallowed deductions claimed as interest paid on indebtedness under Internal Revenue Code of 1939, Section 23(b), holding that advances made by stockholders to the taxpayer corporation were capital contributions rather than loans. T. C. Memo 1956-174. Affirmed.

Bernard Weiss, New York City
for Petitioner

Charles K. Rice, Assistant
Attorney General,
Washington, D. C.
(Lee A. Jackson and
Morton K. Rothschild,
Attorneys, Department of
Justice, Washington
For Respondent.

Per curiam:

Affirmed on the findings of fact and opinion of Judge Rice, T. C. Memo 1956—174.

JUDGMENT

UNITED STATES COURT OF APPEALS

SECOND CIRCUIT

At a Stated Term of the United States Court of Appeals, in and for the Second Circuit, held at the United States Courthouse in the City of New York on the twenty-eighth day of March, one thousand nine hundred and fifty-seven.

Present: Hon. Harold R. Medina
Hon. Sterry R. Waterman, Circuit Judges
Hon. Clarence G. Galston, District Judge

Circuit Judges

241 Corporation,
Petitioner

v.

Commissioner of Internal Revenue,
Respondent.

APPEAL FROM THE TAX COURT OF THE UNITED STATES

This cause came on to be heard on the transcript of record from The Tax Court of the United States and was argued by counsel.

ON CONSIDERATION WHEREOF, it is now hereby ordered, adjudged, and decreed that the order of said The Tax Court of the United States be and it hereby is affirmed.

A. DANIEL FUSARO
Clerk